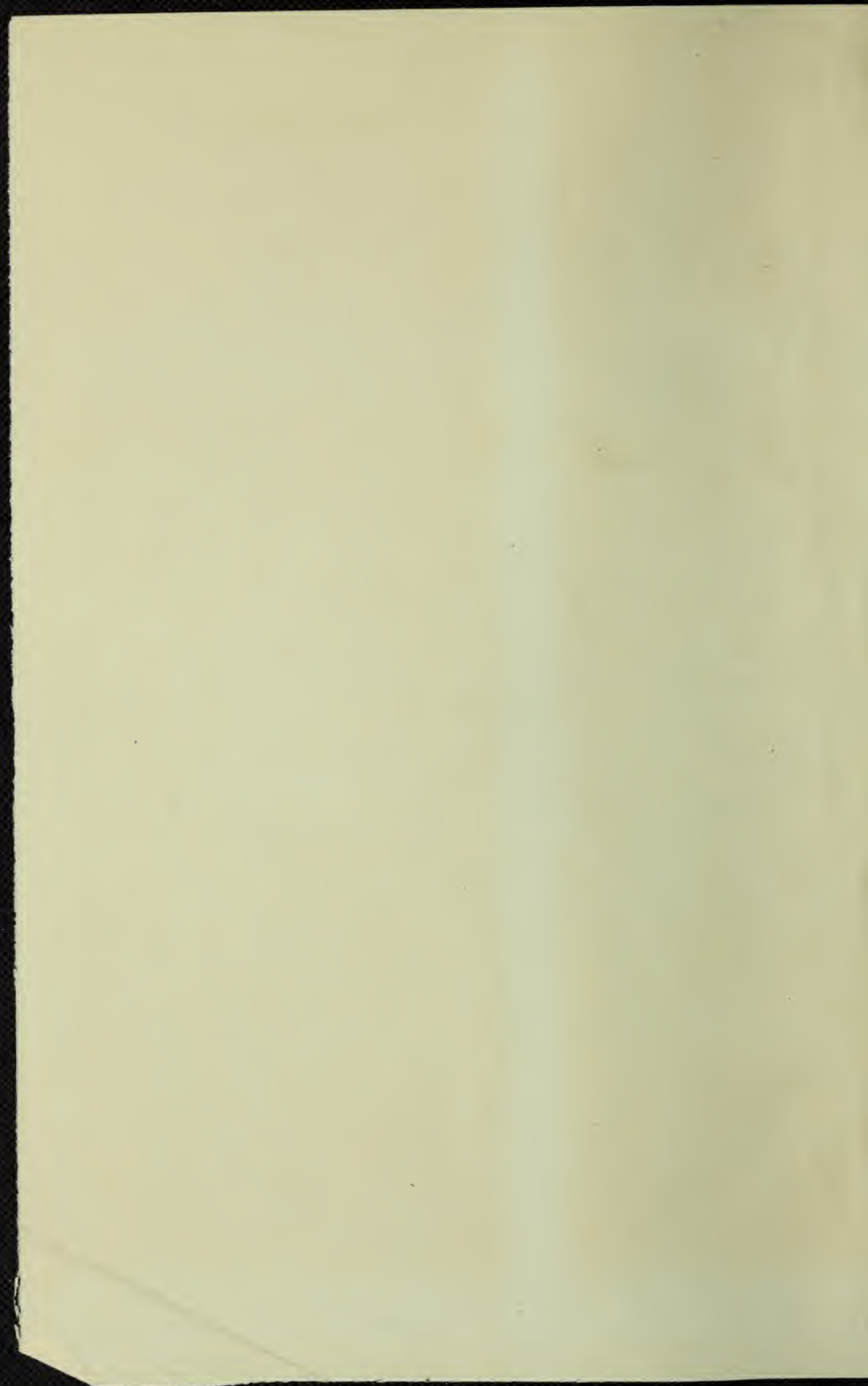


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13 12/ *Clwell*

THE
C A U S E
OF
THE INCARCERATION OF
THE RIGHT REV. DR. HUGHES,
IN THE
CRIMINAL PRISON OF GIBRALTAR
EXPLAINED.

BY
THE V. REV. P. A. WYNNE,
VICAR GENERAL.

1047

LONDON :
J. BROWN, (LATE KEATING AND BROWN,) 10, DUKE STREET, MANCHESTER SQUARE.
AND SOLD BY DOLMAN, NEW BOND STREET; JONES, PATERNOSTER ROW; AND ANDREWS, DUKE STREET, LITTLE BRITAIN.

MDCCCXLI.

justice correspond? Charles
convinced protest for the government "contingent"
details of improvement
what is the character of it?
What is the effect of reform here received by the people
Kempson must be kept - "Kempson & others"
What is given to the government? Is it

When did it look down the table of law
to which the clergy to perform their duties
Prayer -

282.468

W99c

AN EXPLANATION

&c. &c.

46/59 Appendix
THE RIGHT REV. HENRY HUGHES, Bishop of Heliopolis, having been appointed by the Holy See Vicar Apostolic of Gibraltar, arrived in that fortress on the 2nd of January, 1840.

general orders 18 Feb 57 Co. x
At the period of his Lordship's arrival, the Catholic religion in that portion of the Lord's vineyard was, as it had been for many years, in a languishing and sickly state; the religious instruction of the Catholic inhabitants had been grossly neglected, and abuses had been suffered to grow up which were not only opposed to the prescriptions and subversive of the discipline of the Catholic Church, but tended in a great measure to corrupt and demoralize the laboring and poorer classes among the Catholic community of Gibraltar. His Excellency Sir Alexander Woodford, Governor of Gibraltar, claimed the exclusive right of dispensing with the publication of Banns, even in cases where the parties who desired to be married were Catholics; and this so called dispensation from the publication of Banns could only be obtained through the medium of the Police Office, and on paying the sum of sixteen dollars. Among a population of ten thousand Catholics, it frequently happened

that the parties seeking to be married were too poor to be able to pay the large sum of sixteen dollars, and having *reasonable* objections against the publication of their Banns, were driven to enter into a state of concubinage.

Previous to the arrival of the Right Rev. Vicar Apostolic, a school was established and supported by a Government grant for the education of the children of the laboring and industrious classes among the inhabitants of the colony; that no attempt to interfere with the respective religious creeds, or to tamper with the religious principles of the children attending the school, would be permitted, was one of the fundamental rules of that establishment : with regard to the Catholic children who were instructed in the school, that rule was openly violated—the Catholic children were obliged to read, during their hours of attendance at the school, the Protestant version of the Scriptures.

The efforts which the Right Rev. Vicar Apostolic made to guard the most interesting portion of his flock, the poor Catholic children of Gibraltar, against the danger to which their faith was exposed, gave serious offence to some illiberal Protestant inhabitants of the fortress, and his Lordship's firmness in performing his Episcopal duties, and in exercising his spiritual jurisdiction in strict conformity with the discipline and canonical rules of the Catholic Church, formed the subject matter of some complaints which his Excellency Sir Alexander Woodford forwarded to the Colonial Office against the Vicar Apostolic of Gibraltar.

In the year 1835, a comparatively small number of the Catholic inhabitants of Gibraltar appointed a Junta, or Committee of Laymen, to whom were entrusted the funds and temporalities of the Catholic Church in that fortress.

This Junta, as at present constituted, consists of the following members: Anthony Porral, Alexander Shea,

Joseph Francia, Francisco Machado, G. Quartin, Peter Quartin, John Bonell, Pablo Larios, John Parody, Emanuel Gonzales de Estrada, and Francis Xavier.

The Right Rev. Vicar Apostolic had, when about to introduce the measures of moral and ecclesiastical reform which the good of religion imperatively demanded, indulged the hope that the Junta would have given him their cheerful and efficient co-operation. The experience of a few weeks intercourse with its members convinced the venerable Prelate that it was improbable that such hopes would be realized, but that on the contrary, their ignorance of the laws and discipline of the Catholic Church, and their ambition to govern his Church and to control him in the exercise of his spiritual authority, afforded ground for serious apprehension that instead of aiding they would obstruct him in his efforts to ameliorate the moral condition of his flock, and to restore to the Catholics of Gibraltar their right to the free exercise of their Holy Religion. The Junta's conduct soon proved that the venerable Prelate's fears had not been without sufficient reason.

The Junta avowed their intention to assert their supposed right to the government of his Church and its clergy.—They assembled and sat in judgment upon the manner in which the Right Rev. Vicar Apostolic, their spiritual pastor, had exercised his spiritual jurisdiction. They forwarded to the Colonial Office a memorial reprobating the conduct of the venerable Prelate for having exercised his spiritual authority in accordance with the canons and prescriptions of the Catholic Church. This attempt of the Junta to induce a Protestant government to censure, and, if possible, to force a Catholic bishop to abandon his flock, an attempt which gave great dissatisfaction to every practical Catholic in Gibraltar, obliged the Right Rev Vicar Apostolic to re-

nounce further connexion with a body so dangerous, so anti-Catholic, as the self styled elders of the Catholic Church of Gibraltar.

That the Junta is little conversant with the principles of the Catholic Church, and is totally unacquainted with her canonical regulations; the following correspondence which took place between Mr. Alexander Shea a distinguished member of the Junta—whose zeal to assert that body's pretended claim to a jurisdiction over their spiritual superior has been on more than one occasion exhibited—and the Right Rev. Dr. Hughes concerning that venerable Prelate's refusal to permit his clergy to perform the funeral service over the remains of an inhabitant of the garrison, whose obstinate refusal to receive the last sacraments of the Catholic Church shortly before his death, afforded no ground upon which to rest a hope that he died in the Christian faith, will sufficiently demonstrate; nor will the reader fail to observe, that the communication which ensued between Sir Alexander Woodford and the Right Rev. Dr. Hughes on the same subject, clearly proves that his Excellency was not satisfied to confine his genius for governing within the limits of the authority with which, as military and civil Governor of that important fortress, he was invested, but that he ambitioned to wield and exercise a considerable portion of the authority and jurisdiction of the Catholic Church.

[Copy No. 1.]

Gibraltar, 26th October, 1840.

Right. Rev. Sir,

Having been informed that the rites of Christian burial were refused to the body of Manuel Martinez, a poor Catholic, who died in the Civil Hospital, I beg, as Deputy Governor of the Catholic Division of that Institution, to inquire the grounds of this refusal.

The occurrence has excited great interest in the public mind, and will no doubt create a degree of alarm calculated greatly to diminish the utility of a most useful and praiseworthy charity. I shall therefore be most happy to find from your answer that no ground exists for the apprehensions at present so generally entertained.

I have the honor to be,

Right Rev. Sir,

Your very obedient and most humble Servant,

ALEXANDER SHEA,

Dep. Gov. Cath. Division, Civil Hospital.

To the Right Rev. Dr. HUGHES,

Bishop &c., Vicar Apostolic &c.

[Copy No. 2.]

Gibraltar, 27th October, 1840.

Right Rev. Sir,

I yesterday took the liberty of addressing you a letter on the subject of the refusal to afford Christian burial to a Catholic patient, who died in the Civil Hospital.

I am sorry to appear importunate, but as the subject is of great interest, and has already occupied the attention of the Committee of the Catholic Division, I trust you will excuse me for soliciting an answer to my said letter.

If the affair were one in which I alone were concerned, I should not thus trouble you, but as it is, I am under the necessity of thus pressing for a reply.

I have the honor to be,

Right Rev. Sir,

Yours, &c.

ALEXANDER SHEA.

Right Rev. Dr. HUGHES,
&c. &c.

[*Copy No. 3.*]

Gibraltar, 28th October, 1840.

Dear Sir,

I have received your two letters of the 26th and 27th inst., and am very much surprised at the demand which you make. No instructed Catholic could be ignorant of the grounds on which his Church sometimes prohibits the performance of the ceremonial rites of religion over the dead; and no observant Catholic would presume to sit in judgment on, or call in question, the propriety of this prohibition.

When the Sovereign Pontiff, to whom alone I am responsible for the exercise of my spiritual jurisdiction, will authorize the Deputy Governor of the Civil Hospital of Gibraltar to demand "on what grounds I prohibited the performance of religious rites over the remains of an individual who died in that hospital," I will most willingly and most satisfactorily answer.

I remain, &c. &c.,

HENRY HUGHES,
Vic. Apost.

ALEXANDER SHEA, Esq.

Deputy Governor, Civil Hospital.

[Copy No. 4.]

Secretary's Office, 28th October, 1840.

Dear Sir,

The Governor having been informed of the refusal of Christian burial to the body of Manuel Martinez, a poor Catholic, lately dead in the Civil Hospital, I am directed to request you will report to me the circumstances of this case, for his Excellency's information.

I have the honor to be,

&c. &c.

G. ADDERLEY,

Col. Sec.

The Rev. Dr. HUGHES.

[Copy No. 5.]

Gibraltar, 5th Nov. 1840.

Sir,

On the 28th ult. I received a letter from Mr. Adderley, in which he informed me that your Excellency wished to be made acquainted with the circumstances of the case which occurred lately in the civil hospital. It is, to me, a matter of surprise, that the Committee of the Catholic division of that institution should have induced the Governor of Gibraltar to demand the motives which influence the exercise of my Ecclesiastical duties, for which I am solely responsible to the Sovereign Pontiff. But as I am anxious that my conduct should appear in its true light and be divested of the false coloring which misconception or misrepresentation may have given to it, I take the liberty of laying before your Excellency the following observations:—

It is a received maxim, and one very consonant with reason, that the individuals who enrol themselves members of a Society must, if they violate its laws, forfeit their right to its favors and privileges, and become subject to its penalties in proportion to their infringement of its regulations. With a view to the maintenance of each Society in its original integrity, laws are established, rewards appointed, and penalties decreed. In every well regulated Society, a contumacious violation of certain duties prescribed by its laws, is generally punished by exclusion from the body; and the sympathy and compassion which nature teaches us to feel for the unfortunate, become injurious to, and eventually destructive of the Society, if they are so far indulged as to bestow on the wilfully delinquent member the favors which it apportions to the submissively obedient.

In the Catholic Religion, the wilful neglect of certain duties is punished by privations of a spiritual nature; and an exclusion from any participation in the benefits of religion, is sometimes the penalty of obstinate disobedience. If these punishments be occasionally inflicted, no blame can attach itself to, no censure can be justly pronounced on the Administrator of the laws of the Church, who, in justice to the Community, is bound, however reluctant he may be, to inflict the prescribed punishment on a stubborn and disobedient member, in order that the salutary fear, which the execution of the law is calculated to inspire, may be conducive to a more ready obedience to the laws of religion.

In the case of the individual who lately died in the civil hospital, it has been laid to my charge, that I would not allow the funeral prayers to be recited over his remains, nor permit a clergyman to accompany them to the Cemetery. True, I prohibited both, and in so doing, I assumed no undue authority; I violated not any law, I only exercised

the ordinary jurisdiction of any Rector of a Parish ; I complied with the canons of my Church, and acted in conformity with the wishes of the deceased. This individual not only neglected the solemn obligations of the religious Society of which he was a member, but he positively and insultingly rejected the charitably proffered services of one of my clergymen, who exhorted him to reconcile himself with God by repentance, and to prepare himself for eternity. He was fully aware of his approaching dissolution ; he spoke to one of his fellow-patients concerning his wife and family, from whom he had been previously separated ; he took leave of his companions ; and, without uttering a single word indicative of any christian feeling, he expired. This man lived in disobedience to the laws of the Catholic Church ; he refused, he rejected its assistance ; he renounced its authority ; he died in the wilful violation of the solemn contract which he had made with that Church ; he excluded himself from any participation in her religious rites ; consequently he was not buried as a member of that Church. Every well instructed Catholic knows that the ceremonies and rites, used by the Church in the burial of the dead, are not essential ; they are the last act of affection exhibited by her to the remains of that being which, in baptism, she admitted into the communion of the faithful, and which, at its death, she presents as a faithful child to God, praying his mercy in its behalf ; they are a public testimony given by religion in proof of the docility and obedience of the deceased ; they are the favors granted to the dying wishes of a faithful child, whose remains she accompanies to the grave, whose name she enrolls in the registry of the deceased members, and whose memory she hallows in the recollection of Christians. In withholding these rites in the case above-mentioned, your Excellency

will perceive that I have acted the only part which it was lawful for me to adopt. Had I, through weakness, through fear, or human respect, violated the sacred canons of my Church; had I belied the principles of my religion; had I outraged public decency and truth, by proclaiming as an obedient member of the Catholic Church, one who publicly renounced its authority, I should deservedly be considered as a traitor to my religion, a betrayer of the sacred trust committed to my care, and as a large contributor to the destructive delusions unhappily practised on themselves by ignorant Catholics, who, imagining that religion consists in exterior rites and ceremonies, totally neglect the performance of its essential obligations.

The strange anomaly of Catholics exhibiting religious sensibilities at the non-performance of the ritual ceremonies over the dead, while they manifest not any uneasiness at the general corruption of morals, and the public violation of the laws of the Church, exhibited by the living members, which lead to this privation of funeral rites, must be to many, a matter of astonishment and painful consideration.

But these sensibilities are easily fathomed, if we reflect that they are affected by men who are mortified at the progress of religion; who regret the discontinuance of a system in which the most sacred laws of the Church were made to yield to the caprices, the passions, the vices of men, who feel conscious of the dishonor of being declared unworthy of the last sympathies of their religion, and justly apprehend that a similar punishment may be inflicted on themselves; who at last perceive that the Catholic Church will not honor in their graves those, who by their neglect during life, have dishonored her; who, in fine, wanting the moral courage to practise what they profess to believe, and affecting a feeling of religious compassion for the deceased, drag before the au-

thority, constituted for the administration of the civil and military laws, their Ecclesiastical Superior, vainly hoping to intimidate him into a line of conduct which would make religion ancillary to their corrupt designs. It may have been represented to your Excellency, as it has been insidiously intimated to me, that the occurrence which took place in the civil hospital "may diminish the utility of a most useful and praiseworthy charity." Most undoubtedly it will—not because I prohibited those ceremonies which the deceased had, previously to his death, deprecated; no, but because the occurrence has revived the very unfavorable notions entertained of this hospital from foregone transactions; because it has been in a great measure the result of the unchristian regulations which have been lately adopted, and which, in a great degree, prevent the administration of the consolations of religion to the patients in the Catholic division of this hospital, and which have compelled me to order the discontinuance of the daily attention hitherto bestowed on it by the Clergyman whom I appointed to the care of that Institution. In concluding this explanation, I feel that I must apologize very largely to your Excellency, for the length to which it has been extended. Your Excellency required not to be informed of the principles generally received and well understood by all who are placed in authority; but I was desirous that your Excellency would fully comprehend the motives which regulate my conduct, and the feelings by which I am actuated in the discharge of my duty, and know some of the causes of the persecutions which I have been obliged to sustain, from the moment of my arrival in Gibraltar, to the present day. I regret having been compelled to speak in harsh terms of some of my flock, but my justification demanded it.

I feel not the least resentment, I make no complaint, I am

convinced of the intentions of Her Majesty's Ministers, to grant to the Catholic Church of Gibraltar all that has been guaranteed by solemn contracts, and I have not the least doubt of the Secretary of State for the Colonies, ultimately preventing the recurrence of the insults and riotous outrages offered to this Church and its Clergy.

I have the honor to be,

&c. &c.

✠ HENRY HUGHES.
V. A.

To His Excellency

Sir ALEX. WOODFORD, K.C.B.

Governor.

Sir Alexander Woodford's memorials and despatches to the Colonial Office having failed to deter the Vicar Apostolic from governing his Church according to the Canons of the Catholic Church, and performing his Episcopal duties in a mild but firm manner; the charge which was made against his Lordship, that he had been guilty of an irregular and unauthorised interference with the military, and which was attempted to be established by the depositions of a few wicked men, who had taken forcible possession of the venerable Prelate's Church, had interrupted the divine service, and had attempted to offer violence to his Lordship's person, having been disproved by the unshaken testimony of more than sixteen respectable and disinterested witnesses; and the hopes which the Junta had cherished, that the Governor's representations to the Secretary of State for the Colonies would induce Her Majesty's Government to compel their Spiritual Pastor to abandon Gibraltar, having been sadly dissipated; that estimable body of Catholics determined to make one more effort to accomplish their

laudable design!!! The Junta filed a Bill against the Right Rev. Dr. Hughes in the Equity Branch of the Supreme Court of Gibraltar, to assert their right to the exclusive regulation and receipt of all the monies given by the faithful to the Catholic Clergy of Gibraltar, for the administration of the sacraments and the performance of the religious offices of the Church, which claim they founded upon alleged custom. In their Bill they prayed for an account of all fees and monies collected by the Vicar Apostolic, from the 1st day of August, 1840; that he should be compelled to pay to their Treasurer the sum of £300, which was annually paid to his Lordship by the Receiver General of Gibraltar, by order of Her Majesty; and that he should be ordered to replace in his Church three tables of fees, which set a price upon the administration of the sacraments and the performance of the religious offices of the Church.

The case was heard before the Chief Justice, Baron Field. Mr. Conwell appeared for the Plaintiffs, and Mr. Sewell for the Right Rev. Defendant. The Chief Justice, after hearing the evidence on both sides, made the following decree against the venerable Prelate:—

“Upon debate of the matter, and hearing the proofs taken in the cause read, and what was alleged by Counsel on both sides, his Honor doth declare, that the Plaintiffs are the duly constituted Elders of the Roman Catholic Church of St. Mary the Crowned, at Gibraltar. And his Honor doth further declare, that the customary right of such Elders to manage and administer the temporalities of the said Church ought to be established, and doth order and declare the same accordingly. And his Honor doth further order and declare, that the said Defendant do pay to the Plaintiff Anthony Porral, as Treasurer of the said Plaintiffs of such body of Elders as aforesaid, all such fees and monies as he hath in his hands

*in Oct
1840*

Jan 7 1841

and possession of the funds of the said Church; and that he do pay monthly, and every month, all such fees and monies as he shall hereafter collect and receive as the funds of the said Church to the said Anthony Porral, the Treasurer of the said assembly of Elders, or to the Treasurer for the time being of the said assembly of Elders. And it is further ordered, that the said Defendant do put up and place in their former accustomed places within the body of the said Church the said three tables of fees. And it is further ordered and decreed, that the injunction formerly granted to restrain the Defendant, his servants, and all other persons whomsoever acting under him or by his order, from interfering in the managing, paying away, or administering the funds of the said Church, be continued. And it is further ordered, that the Defendant do pay unto the Plaintiffs, the Elders, their costs of this suit, to be taxed by the Master. And his Honor doth reserve the consideration of further directions."

The Chief Justice, in issuing this decree against the Right Rev. Defendant, appears to have treated the case of the Junta versus the Right Rev. Henry Hughes, as if the funds or monies of the Catholic Church at Gibraltar, to the exclusive management and distribution of which the Junta asserted a claim, were, or could be said to be, what in the eye of English Law is considered CHURCH PROPERTY; otherwise, we presume that the legal profession, notwithstanding the acknowledged legal abilities of Baron Field, will be sadly at a loss to reconcile that learned Functionary's decision in favor of the Junta's claims, either with the Common or Statute Law of England, or even with the Crown Colonial law. But the Right Rev. Henry Hughes possesses no Church Property in the true and legal meaning of that word. The monies which he holds, and to the pos-

To John Comyns
 13. April. Motion for a receiver of all fees
 and monies to be collected in the Church
 and Chapel of St. James at Gibraltar with

session of which he asserts an exclusive right, consist of £ 300, which Her Majesty annually grants him as Catholic Chaplain to the garrison of Gibraltar, and of the *voluntary* offerings of the people for the support of himself and his clergy. To these offerings of the people the Bishop has, or can have, no *legal claim*. He cannot demand them from the people. It is true, the people are under a *moral* obligation to contribute to the support of their clergy; but the law gives no legal right to the Catholic Clergyman to claim that support from the people.

With the above decree, so very vague in its terms, and technically inaccurate, the Right Rev. Vicar Apostolic could not conscientiously comply; and his Lordship, by virtue of the right given him by the Charter, or Letters Patent, of his late Majesty King William the Fourth, presented his petition to the Supreme Court of Gibraltar, for liberty to appeal. The Supreme Court granted him liberty to appeal, "upon the terms that he first perform the decree made in the said cause in every respect, and enter into a sufficient surety in the sum of five hundred dollars to prosecute the appeal with effect."

The Right Rev. Prelate considered that this qualified permission to appeal was tantamount to a refusal of such permission, and felt that it was for him now to decide, whether he would betray the cause of religion, or go to a goal. During the few days allowed him to decide which of the two he would choose, his Lordship wrote the following letter to the Secretary of the self-styled Elders of the Catholic Church at Gibraltar.

and Church upon his entering into good and sufficient security to account monthly, and every month, to the B. Treasurer of the said Body of Elders of the said Church, for all fees and other monies collected in the C. Church

[Copy No. 6.]

Gibraltar, 30th January, 1841.

Sir,

Was I a private individual I would not now trouble you with this letter, but I should await the result of the measures which it will be necessary to take, in order that an end be put to the questions which agitate this church. But I am the Prelate of this church, and I cannot look with indifference on the scandal which is caused to the well disposed, by a few irreligious and turbulent men. I address myself to you, Sir, who have taken upon yourself the disagreeable office of being the organ of a body, which does no honor to the name which it has taken, in order that there may not exist the least excuse for the part which it has acted. This body, which, during the few years of its existence, has caused numberless and serious annoyances to the Pastors of this church, has, since my arrival, carried its insolence to such an extent, as to constitute itself a judge in affairs purely Ecclesiastical; and not content with this, has denounced me to an authority professing a different religion, an act so unbecoming that it must not only have caused great surprise to him, but must, from the opinion which I have formed of the Government of Her Gracious Majesty, have been treated with the contempt which it merited.

A conduct so very irreligious called my attention to, and induced me to reflect on and attentively consider, the nature of so dangerous a body; and I fully comprehended the necessity of taking measures to counteract the exercise of an assumed authority, fraught with consequences so dangerous to the independence of religion, so preventive of the progress of virtue, and so destructive of the peace and tranquility of my flock. You yourself, Sir, who are well in-

formed of the intrigues and changes which have taken place in the Junta, know very well that a body formed from the Junta of the Hospital, which had nothing whatever to do with the church, and which body was governed by regulations as absurd as they were Anti-Catholic, could exist only as long as the preponderance of some men of wealth, audacity, and public immorality, continued; and therefore in the year 1835 it was abolished, as illegally constituted, and another, falsely supposed to be properly appointed, was named. You said to this body—"The Junta should be the Representatives of the people, but you do not represent them; you were not elected by them; you name each other, and some of you have continued in office for several years. Make way for more honest men; it is necessary that you should retire, and that a 'true, popular Junta' should be formed." They unwillingly made way for you, and protested against the act, and a new body of Elders started into existence. Hence it clearly follows, that from the year 1815, in which that illegally formed body commenced, until 1835, in which it ceased, there was not, according to your own argument, a Junta legally appointed. And this is your boasted "prescription."

And how was the true, popular Junta, which succeeded it, formed? Nearly one hundred individuals, in a population of ten thousand Catholics, subscribed two dollars each for the benefit of the church: they assembled, and from this self appointed meeting twelve men were selected to form the "popular" Junta, or Representation of the Catholics of Gibraltar. In what was this new body of Elders more legal than that which you abolished? In what assembly of the people were these "new, popular Representatives" elected? Who convoked the people? Were all the Catholics, capable of giving a vote, summoned to this election?

Why was the great body of the people excluded? How could a subscription of two dollars, and which sum was never paid, disqualify the hundreds of Catholics who knew nothing of your proceedings, deprive them of their right of voting, if they possessed any, and entitle the subscribers to the double privilege of voting, and of being elected? And if the people had not this right, how can you be their Representatives? By what law was this election regulated? By whom was this law first established? Did he who instituted it possess authority for so doing? What rights, what powers, what privileges, what authority, were conferred by the people on their Representatives? For every Deputy must have faculties, explicitly marked out by his Constituents.

And is this the "true, popular, legally appointed Junta" of "Elders of the Catholic Church of Gibraltar?"—"a Corporation existing," as you positively declared, "from time immemorial, approved by the Holy See, and sanctioned by the British Government." A respectable Corporation, truly! without fixed laws, without a fixed mode of election, without a fixed number of members, without a fixed body of electors; always changing, wrangling, abolishing, renewing, shuffling, remodelling; with nothing fixed or determined or permanent, but a dislike of the practises of religion, and an overweening struggle to subject church, prelate, priest, and people, to your evening caprices.

And what are the faculties of this "popular" Junta? Granting for a moment that the people would give most ample faculties to their Representatives, could they confer a power over those things which are beyond their jurisdiction? In fact, neither a people, nor even a Sovereign, can claim any right over that of which they have once freely dispossessed themselves. There are things, Sir, so clear, as

that neither the stratagems of lawyers, nor the misconceptions of Judges, nor the false interpretation of evidence, can obscure them. The Ministers of religion have their wants; these wants are supplied through the means of money: and, as they dedicate themselves entirely to the Spiritual service of the people, it is necessary that the people provide them with the means of subsistence; and these means of subsistence are supplied by voluntary contributions and parochial fees, which, on the administration of Sacraments, are given for the support of the Clergy; but by whatever name you may call them, they are the "wages of the labourer and the stipend of the soldier," according to the expressions of the Scripture. If then the soldier and the labourer fulfil those duties which are required from them, who can deprive them of their stipend and their wages? If the people, who name the Junta as their Representatives, comply with their obligation in giving to the Ministers of religion "that stipend and those wages," how can the Junta attempt to take from the lawful possessors that which the people, the Constituents of that Junta, have given to the Clergy? How can the people, through the Junta, control the administration of that money over which they have no jurisdiction? The people willingly dispossessed themselves of that which they gave for the maintenance of their spiritual ministers, and consequently every right on their part to claim its repossession or administration has ceased. Are you certain that in this point you represent the wishes of the people? Have you enquired of them whether or not they wish to retain, in their own power, the administration of that which they gave for the support of the clergy, and as the "wages of the labourer?" Have they explicitly conferred this power on the Junta? Most evident then is the right of the Clergy to possess and retain the voluntary contributions of the faith-

*How can the
Junta take from
the people the wages of
the soldier and the
labourer?*

ful; and it must be considered a great absurdity in the Junta to seek the administration of them, for in that case, if the Junta be, as you say, the "popular representation," the people would take away with one hand what it had given with the other. Egregious inconsistency! An indisputable proof that in your unceasing and unjustifiable efforts to get these fees, these wages, into your possession you are not the Representatives of the people, or that you grossly and pertinaciously exceed your commission.

With respect to the salary assigned by Government, the attempt on the part of the Junta to take charge of it is not only insulting to the receivers, but must be highly offensive to the giver.

*Just a word to
reprove the Junta*

As there is not any property in lands or houses appropriated to the repairs of the Church of Gibraltar, every person possessing the least judgment must perceive that there is no analogy between the Committees existing in Catholic countries and the Junta of the Elders.

In fine, the Ecclesiastical Superior has a full right to manage and arrange every thing within his church, and therefore the gallery, which has been built with the funds arising from the sources above-mentioned, belongs to the church, and must be at the disposal of the superior. As to the Tables of the Fees, about which so much has been said and so much written, you cannot be serious when you complain of their removal from the church, and insist on their being replaced. Formerly, indeed, when the acquisition of money was the grand object always kept in view, and when the benefits of religion to be conferred were measured by the extent of the purses of the applicants, it was necessary to cover the walls of the House of God with multiplied Tables of Fees; lest some unlucky wight not knowing it to be a toll-house, might mistake it for a Temple of Religion: but in the present

order of things I hope that we will not be compelled to subject ourselves to the censure pronounced on those, who convert the House of Prayer into a portico of money changers, "and a den of thieves."

You assert that you are the Representatives of the Catholics of Gibraltar, the "true, popular, legitimate Junta de Ancianos." Unfortunately for your pretensions you are not *de jure* Deputies of that body, nor are you *de facto* Representatives of their sentiments. Allow me, Sir, to ask you, do not the regulations which govern the Junta prescribe that each year, in the month of September or October, six of the Members must retire, and be replaced by an equal number elected by the people? You, Sir, who with others figure in the Courts of Justice under the name of accusers of your Bishop, and who are conspicuous for hostility to your Prelate, and labour in those unholy avocations which tend either to the degradation of religion and its clergy, or to the introduction of schism, should, if I mistake not, have left the turbulent scenes of the Junta, and in October last have retired to the "Otium cum dignitate," in the pleasing anticipation of the honorable and well merited title of "Ex-Member of the popular and legitimate Junta of the Elders of the Catholic Church of Gibraltar." And why have not *you* and the *others* retired? Who re-appointed you? By what law have you voted yourselves into a permanent body? Why do you renew, in your own person, the irregularity of which you grievously complained, when in 1835 you, so unceremoniously, dismissed the previous Junta? How could you conscientiously appear in a Court of Justice as one of the Junta of Plaintiffs, when by your own regulations you had ceased to belong to it? Why was not a meeting of the people called to elect your successors? You would have found a few willing to take your places, and infuse new

venom into the body. Was it feared that the Catholics of Gibraltar, heartily tired of the Junta, and disgusted with its scandalous proceedings, would have abolished the body, and relieved it from the duty of governing this church? Believe me, Sir, you are *not* the Representatives of the Catholics of Gibraltar, but of a few bad and irreligious men. For many years you lamented the abuses which had grown into the heart of religion in this garrison: you have seen the holy things of religion sold, and the vendors enriched by the spoils; you have witnessed mercantile speculations realized, houses built, estates purchased, by the superabundant opulence of the Clergy; you have seen the punishment of poverty in the multiplied concubinage of hundreds of your fellow Catholics, who had not the means sufficient to purchase the assistance of the pastor at their marriage, and in the consequent illegitimacy of their offspring: you did not conceal these abuses; they reached the ears of the Sovereign Pontiff. You complained of the late Vicar; you sought his removal; you hailed my arrival; you acknowledged that beneficial changes had taken place; you perceived that the gratuitous performance of the ceremonies of marriage restored to many parents the long wished for peace of mind, and enabled their children to call, without shame or a feeling of dishonour, the endearing name of mother; you have witnessed, that in the interment of the poor, their inability to discharge the funeral fees was not branded with exterior degradation; you know that the bed of the dying Christian is now hallowed by the unceasing attention of the Ministers of Religion; that the Civil Hospital despite the inconceivable opposition of some, who called themselves Catholics, is become a nursery of repentance and virtue; and that no spiritual want of the people is unheeded or neglected by the Clergymen of this Church: yet, because I fulfilled the precepts of the Church, which appeared

severe in the opinion of the Junta of Elders, because I would not allow the scanty subsistence of nine or ten individuals attached to this Church to pass through the hands of the Elders, you reprobate my conduct, you denounce me to the Government, you summon me to the Courts of Law, and you *prophetically* declare that tranquility will not be restored to this people while the present Vicar Apostolic remains in Gibraltar. In this latter assertion I very much fear that the meed of the prophet must be awarded to you; for, Sir, there are two sorts of prophets—the first is of those who predict events to come, the future existence of which is known only to God: the second consists of those who foretel those future events which they themselves are determined to bring about; and as you have resolved not to cease your persecution of me until, as it is politely asserted, “you break my heart, or induce me to quit Gibraltar in disgust,” your prophetic spirit cannot be called in question. Moreover you have taken forcible possession of one of the rooms of my house, and removed the furniture of the Clergyman who inhabited it; you have, in very unbecoming language, given orders to my clergymen to quit my house, over which you possess not the least authority; and for the purpose of annoyance you, twice in the week, perform your antic amusements before my house for the amusement of your followers. You, by unjust accusations and vexatious law suits, deprive me of the little which I can call mine; you obtain a judicial decree, authorising you to govern the Catholic Church of Gibraltar; and you threaten me with a prison, as if the goal had any horrors for a Catholic Bishop, who acts in obedience to the Canons and Prescriptions of his Church.

Know then, Sir, that the line of conduct which we must adopt is clearly marked out in the letter of the Cardinal Prefect of the Propaganda Fide, a copy of which I subjoin to

this letter, and the original of which can be perused by any person applying to me for that purpose. You will have the goodness to present both to your companions. You call yourselves the Elders of this Catholic Church, and therefore you will obey the mandate of the Sovereign Pontiff, by whose directions the proceedings of the Propaganda take place, and you know that obedience is one of the essential characters of Catholicity. You boast of having received letters from the Cardinal Prefect, you present them in evidence of the right which you claim, and although these letters were nothing more than respectful answers to your communications, yet they are deemed of great importance in a Court of Equity. You cannot, therefore, refuse submission to the orders conveyed in *this last letter* from the Prefect, whose very explicit language leaves no doubt of the falsity of your former declaration, viz., "that the Junta had been approved at Rome." You will then, I trust, repair some of the scandal which you have caused, by promptly obeying the positive injunction of the Head of the Church of which you are members.

If you are *not* Catholics then retire, for *you* cannot undertake the management of Catholic affairs. And should you *not obey* you become schismatics, and schismatics have no portion in the inheritance of the Church.

As to your arguments of my having written to you from Rome, and my having acknowledged your authority by the fact of presiding at your meetings during five or six months, they have no force whatever. I wrote a letter to the Vicar and the Junta giving you notice of my appointment, considering you as men interested in the advancement of religion; but of your origin, of your laws, of your objects, your powers, claimed or acquired, I knew nothing, and never inquired. During five months I assisted at your meetings,

and witnessed your efforts to obtain supremacy in the government of this Church. You know that I *never* recognized your authority, and you complained. I did not consult you on the removal of some clergymen from my house, (although you said it belonged to you,) and from their office. I did not consult you on the purchase of the articles which I judged necessary for my Church, although you had appointed a special officer for the purchase and the care of these articles. I never took the trouble, because I never perceived the necessity, of making myself acquainted with your regulations. I governed my Church without your advice, yet I acted with you, and wished to render you a harmless body, and but for your own folly and arrogance, in presuming to sit in judgment on your Bishop in the exercise of his spiritual jurisdiction, I would still have continued to preside at your meetings, and made use of your services in temporal matters.

What will the Catholic Junta now say? What line of conduct will they adopt? The Sovereign Pontiff has decided that they cannot longer interfere in the management of any of the concerns of this Church. The very authority which this Junta has hitherto exercised would render the Clergy dependent on them, would destroy the independence of religion, would raise priest against prelate, and ultimately subject church and people to their designs, whatever these might be. A Catholic Bishop cannot permit such an authority to exist; he cannot betray the interests of religion. Placed by the Sovereign Pastor over this flock, I must guard it not only from the open enemy, but also from false brethren. I never can, I hope that I never will, betray the trust reposed in me by His Holiness, whose Vicar, whose Representative, I am. No timidity, no human respect, no expence, no opposition, no difficulty, shall prevent me from

having recourse to the highest Tribunal, if necessary, in order that I may put an end to a system of misrule, to an arrogant assumption of authority, which, leaving to the Vicars but a shadow and the appearance of superiority, have been the causes of all the evils which for years have agitated, have prostrated, have degraded, and rendered despicable this small portion of the Church of Christ. Neither judicial decrees, nor fear of a prison, shall terrify me into the admission of claims reprobated by our Church, nor shall I ever be ashamed of that constancy and undeviating firmness which I owe to our religion, to the good Catholics of Gibraltar, to my own dignity, and for which I am a large debtor even to those children who persecute me.

Be pleased to communicate to the Junta my determination, and the motives of it, in order that they may be convinced that conscience, not caprice, guides me in this affair. I willingly forget the injuries and the bad treatment which I have received from this body, in public and in private, by word and writing, and listen only to the voice of duty. Adopt whatever line of conduct may seem to you most advisable, but be persuaded it never shall alter the conduct of, nor excite an unkind feeling in,

Your very affectionate friend and Pastor,

(Signed)

✝ HENRY HUGHES,

Bishop of Heliopolis, and Vicar Apostolic in Gibraltar.

[Copy No. 7.]

*Copy of a Letter received from the Cardinal Prefect of
Propaganda Fide.*

Rome, Propaganda Fide,
21st November, 1840.

Right Rev. Sir,

This Sacred Congregation has heard with no less surprise than pain, that the Members of the so called *Catholic Junta* have proceeded to such an excess as to cite you, their Bishop and Pastor, and the Representative of this Apostolic See, before the Civil Tribunals.

The Holy See trusts that the British Authorities and Magistrates will have for your dignity that regard which some untoward children of the *Catholic Church* have, with such great scandal, refused to pay; and that, according to the tenor of the Laws and Solemn Treaties, which have guaranteed protection to the Catholics of that city, they will defend the indisputable rights of the Bishop against the insolent rebellion of some misguided individuals belonging to his flock, and subject to his spiritual jurisdiction.

Moreover, according to the immutable principles of the *Catholic Church*, the power, which the miscalled *Catholic Junta* aims at arrogating to itself, is an absolute usurpation, which never was, nor ever can be, recognized by us; and it is enjoined and commanded, that you will prevent their exercise of *any* jurisdiction, and that you will intimate to them, in the name of this Sacred Congregation, that they immediately dissolve their body. If, hitherto, ignorance of the Canonical prescriptions has drawn any into error, more or less excusable, they must now and henceforward know that they cannot, in opposition to Ecclesiastical authority,

interfere in matters appertaining to the Church; and that they expose themselves to the danger of incurring the most severe censures, if they pertinaciously persevere in waging war against their Bishop, by appealing, contrary to the Canon law, to lay tribunals in matters which solely appertain to Ecclesiastical authorities.

In fine, we advise you to suspend the payment of the pensions assigned by that Junta from the funds of the Church, until the Sacred Congregation will have examined the merits of those who are pensioned, and will have decided on the justice of their claims, and the manner of providing for them. As the question is about Ecclesiastical funds given by the Government, and by the faithful, to the clergymen employed in the sacred ministry, it is an intolerable abuse that lay persons should meddle with the distribution of them; and should a doubt arise about their administration, recourse should be had to the Supreme Ecclesiastical Authority, namely, to the Apostolic See, according to the fixed maxims of the Church.

Placing this before you as your guide, I pray the Lord to preserve you many years.

Yours, &c.

(Signed)

G. P. CARDINAL FRANSONI,
Prefect.

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J. ARCHB. OF EDESSA,
Secretary.

Right Rev. HENRY HUGHES,

Bishop of Heliopolis, and Vicar Apostolic of Gibraltar.

The Right Rev. Dr. Hughes was arrested on the 26th of February, 1841, and lodged in the provost or criminal prison of the garrison. There are two prisons in Gibraltar,

one for the confinement of prisoners under civil process, the other for the incarceration of criminals. British justice has thrown a Catholic Bishop into a felon's goal; has confined him to a narrow, damp, dark cell; will not suffer him to be visited by his friends or his clergy, except at the pleasure of a magistrate of police, who frequently refuses to grant such permission. And what is the heinous crime committed, which has called forth this vigorous display of British power? We know of none, except it be a crime for a Catholic Prelate to govern the Church over which he has been duly appointed to preside, in accordance with the Canonical rules and maxims of the Catholic Church in a British Colony, where the free exercise of their religion has been guaranteed to the Catholic inhabitants by a solemn treaty.

The following letter directed from the sacred congregation to the Papal Consul at Gibraltar, will afford satisfactory evidence that the fortitude displayed by the Right Rev. Henry Hughes in braving the terrors of a felon's goal, is not for the purpose of catching public sympathy, but arises from a conviction that it is his duty to suffer, and, if necessary, to lay down his life in defence "of a cause which is not so much his own as that of the Catholic Church."

[*Copy* No. 10.]

A Copy of a letter written from the Sacred Congregation of the Propaganda Fide to the Papal Consul in Gibraltar, 2nd of March, 1841.

THE boasted triumph which the self styled Junta has gained by resisting the Holy See and openly despising its commands, does not grieve me so much as the enormous

offence of which the members who compose it are guilty before God by their obstinate disobedience.

The unchangeable maxims of the Catholic Church, which do not permit nor sanction the power which they are usurping, cannot in any way be altered by the decision of a non-catholic tribunal, to which ~~real~~ Catholics ought to be ashamed to have recourse in order to wage war against their Holy Pastor : such judgments are only maledictions and disgrace for those who dare to procure them.

I am much grieved on account of the censures which those will incur who have taken part in these judgments, and if it be true that two Ecclesiastics were most active in aiding them with their testimonies, (one of whom was Mr. Zeno) they will be obliged to attribute to themselves, the necessity of making this sacred congregation interdict them from the performance of every duty of the sacred ministry.

I have nothing further to add but to request that your Excellency will give every support and assistance to the worthy Bishop the Vicar Apostolic, advising him to oppose on all occasions a patient but invincible firmness to such excesses of impious arrogance, and to support with vigour a cause which is not so much his own as that of the Catholic Church.

Have the goodness to forward this to the persons forming the reprovéd Junta, in answer to their remonstrance. I flatter myself however that entering into themselves, they will atone for the error into which they have fallen by an edifying amendment. May God grant you every blessing, &c.

G. P. CARDINAL FRANSONI,
Prefect, &c.

*the late Vicar
General*

